

## **INSTRUCTIONS TO BIDDERS**

### **IB1. Bid Proposals**

**IB1.1.** Sealed proposals for the work described herein must be received and time-stamped in the Bid Room, Division of Building and Construction (DBC), 8th Floor, Taxation Building, CN 235, West State and Barrack Streets, Trenton, NJ 08625. The closing date and time for bids will be stated in the Advertisement and Invitation to Bid. Bidders are cautioned that reliance on the US Postal Service or other mail delivery or courier service for timely delivery of proposals is at the bidders' risk. Failure by a bidder to have a sealed proposal reach DBC by the prescribed time will result in a return of the unopened submission.

**IB1.2.** Bids will be received on the following branches of work, as applicable:

- Contract # 1 - General Construction
- 2 - Structural Steel
- 3 - Plumbing
- 4 - Heating, Ventilating and Air Conditioning
- 5 - Electrical
- 6 - Special Categories as may be required

**IB1.3.** Contractors prequalified by DBC may obtain contract documents at the Office of the Division of Building and Construction or upon written request, subject to payment of applicable fees. Each bidder is herewith put on notice that its general classification by DBC is not the sole basis for qualification for the award of work. The Director reserves the right to deny award to any bidder that is not clearly responsible, based upon experience, past performance, financial capability or other material factors, to perform the work required herein.

**IB1.4.** The schedule of non-refundable bid fees below is based upon individual trade construction cost estimates. Upon request and at no cost, DBC will furnish a set of the contract documents for review in the offices of the division at the address noted in paragraph IB1.1 above.

#### **DBC BID DOCUMENTS FEE SCHEDULE (PER PACKAGE):**

TRADE ESTIMATE	DOCUMENT FEE	MAILING FEE
\$100,000 or less	No charge	\$10.00
Greater than \$100,000	\$ 65.00	\$10.00

**IB1.5.** Bid proposals based upon the plans, specifications, general, special and supplementary conditions and bulletins shall be deemed as having been made by the contractor with full knowledge of the conditions therein. Bidders are required to visit the site prior to submitting proposals for the work herein described, and to have thoroughly examined the conditions under which the contract is to be executed, including those reasonably observable conditions of the premises which would hinder, delay, or otherwise affect the performance of the contractor required under the terms of the contract. The State will not allow claims for additional costs as a result of

the contractor's failure to become aware of the reasonably observable conditions affecting its required performance. The bidder is required to make appropriate allowances in the preparation of the bid for the accommodation of such conditions. Bidders must warrant in the bid documents that the bidder is familiar with conditions existing at the site at the time the bid is submitted.

**IB1.6.** Bid proposals shall be submitted on the standard form provided by DBC, enclosed in a sealed envelope issued by DBC. The name and address of the bidder must be indicated on the envelope, as well as indication of the DBC project number, project location and other appropriate identification.

**IB1.7.** All amounts in the bid documents shall be stated in numerical figures only.

**IB1.8.** The bidder must include in the bid envelope: (1) the proposal signed by the bidder, (2) the executed affidavit of non-collusion, and (3) bid security as further described in Section IB6 hereafter.

**IB1.9.** Proposals shall remain open for acceptance and may not be withdrawn for a period of 60 calendar days after the bid opening date.

**IB1.10.** Proposals not submitted and filed in accordance with instructions contained herein and in the Advertisement for Bids may be considered informal and rejected as non-responsive.

## **IB2. Bid Modification**

**IB2.1.** A bidder may modify its bid proposal by telegram or letter at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the State prior to such closing time. A written confirmation of any telegraphic modification signed by the bidder must have been mailed and time-stamped by the US Postal Service prior to specified closing time. Such confirmation shall be accompanied by a newly executed affidavit of non-collusion.

**IB2.2.** Telegraphic communications shall not reveal the basic bid price but shall only provide the amount to be added, subtracted or modified so that the final prices or terms will not be revealed until the sealed proposal is opened. If written confirmation of the telegraphic modification is not received within two working days after the scheduled closing time, no consideration will be given to the telegraphic modification.

**IB2.3.** Bids may be withdrawn upon receipt of a bidder's written request prior to the time fixed for the bid opening. A bidder's right to withdraw a bid is lost after a bid has been opened. If an error has been made in the bid amount, request for relief from the bid may be made in writing to the Director. The written request shall be signed by an authorized corporate officer. A determination of whether the bidder will be released shall be at the sole discretion of the Director, who shall issue a finding within five working days of receipt of all pertinent information relating to such request for relief.

## **IB3. Consideration of Bids**

**IB3.1.** Award of Contracts or Rejection of Bids:

- a.** Contracts will be awarded to the lowest responsible bidder. The awards will be made, or the bids rejected, within 60 calendar days from the date of the opening of bids.
- b.** The Director reserves the right to award the contract on the basis of the single bid for the entire work, or on the basis of a separate bid and alternate, or any combination of separate bids and alternates, which the Director deems best serves the interest of the State.
- c.** The Director reserves the right to waive any bid requirements when such waiver is in the best interests of the State, and where such waiver is permitted by law. Such waiver shall be at the sole discretion of the Director.
- d.** The Director reserves the right to reject any and all bids when such rejection is in the best interests of the State. The Director also may reject the bid of any bidder which, in the Director's judgment, is not responsible or capable of performing the contract obligations based on financial capability, past performance, or experience. A bidder whose bid is so rejected may request a hearing before the Director by filing a written notice.

**IB3.2.** The bidder to be awarded the contract shall execute and deliver the requisite contract documents, including payment and performance bonds, within the time specified. Upon the bidder's failure or refusal to comply in the manner and within the time specified, the Director may either award the contract to the next low responsible bidder or re-advertise for new proposals. In either case, the Director may hold the defaulting bidder and its surety liable for the difference between the applicable sums quoted by the defaulting bidder and the sum which the State may be obligated to pay to the contractor which is contracted to perform and complete the work of the defaulting bidder.

#### **IB4. Awards**

**IB4.1.** In executing a contract, the successful bidder agrees to perform the required work in a good and workmanlike manner to the reasonable satisfaction of the Director, and to complete all work within the number of calendar days specified in its Contract.

**IB4.2.** Successful bidders will be notified of the time and place for the signing of contracts. Key requirements in the conduct of the contract, including, but not limited to, the number of days of performance of the contract, manner and schedule of payments, and other administrative details will be reviewed at the award meeting. The time and place of the first job meeting will be announced at the award meeting.

**IB4.3.** The State of New Jersey reserves the right to award the contract upon the basis of a single bid for the entire work, or on the basis of separate bids for each prime trade when the total of the separate bids is less than the single bid. Alternates will be accepted or rejected in numerical sequence as cited in the bid documents and shall not be selected at random except as provided herein. Add alternates and deduct alternates will be specified separately. The State may choose from the add and deduct alternates without priority between the two groups so long as selection within each group is in numerical sequence from the first to the last. This limitation shall not apply,

however, to any alternates concerning proprietary items. The Director, with the approval of the Using Agency, may accept alternates out of sequence, provided the Director states the reasons for so doing, in writing, within five working days following the opening of bids.

**IB4.4.** Should submission of unit prices be required for specified items of work in bid proposals, they will be considered in the evaluation of bids.

## **IB5. Qualification of Bidders**

**IB5.1.** If the successful bidder is a corporation not organized under the laws of the State of New Jersey or is not authorized to do business in this State, the awards of the contract shall be conditioned upon the prompt filing by the said corporation of a certificate to do business in this State and complying with the laws of this State in that regard. This filing must be made with the Department of State. No award of contract will be made until the Department of State confirms this authorization.

**IB5.2.** The State requires that each contractor, except in the case of a single contractor, shall perform a minimum of 35 percent of the contract work by the contractor's own forces. However, the Director has the sole discretion to reduce this percentage depending upon the nature and circumstances in any particular case, if the Director determines that to do so would be in the best interests of the State, and provided that the bidder submits a written request with the original bid proposal.

**IB5.3.** The State reserves the right to reject a bidder at any time prior to the signing of a contract if information or data is obtained which, in the opinion of the Director, adversely affects the responsibility and/or the capability of the bidder to undertake and to complete the work, regardless of the bidder's previous qualification or classification. The State may conduct any investigation as it deems necessary to determine the bidder's responsibility and capacity, and the bidder shall furnish all information and data for this purpose as requested by the State.

**IB5.4.** Each bidder must be prequalified by DBC in accordance with the provisions of the classification statute (NJSA 52:35-1, *et seq.*). In the case of a single bid for all of the work, the bidder shall include in the bid the names of its principal subcontractors (in categories as listed in IB1.2 above), which must also be classified in accordance with the said statute.

## **IB6. Deposit and Bid Bond**

**IB6.1.** Each proposal shall be accompanied by a bid bond or by a certified check, made payable to the State of New Jersey, equal to five percent of the amount of the proposal, as evidence of good faith, which guarantees that if the proposal submitted by the bidder is accepted, the bidder will enter into the contract and furnish the required contract documents and surety bonds. If a bid bond is submitted, it shall also provide that the surety issuing the bid bond be bound to issue the required payment and performance bonds if the bidder is awarded the contract. If the bidder whose proposal is accepted is unable to provide the performance and payment bonds or fails to execute a contract, then such bidder and the bid bond surety shall be obligated to pay to the State the difference between the amount of the bid and the amount which the State contracts to pay another party to perform the work. The State reserves the right to retain any certified check deposited hereunder as reimbursement for the difference as described above and shall return any

un-required balance to the bidder. Should there be a deficiency in excess of the bid deposit, the bidder shall make immediate payment to the State for any such deficiency. If a bid bond has been submitted, the bidder and the surety shall pay, upon demand, the entire amount of the State's difference in cost. Nothing contained herein shall be construed as a waiver of any other legal remedies that the State may have by reason of a default or breach by the contractor. Certified checks or bonds submitted by unsuccessful bidders will be returned after the contract has been executed. Contractors electing to furnish a bid bond must include Consent of Surety, both in forms acceptable to DBC.

**IB6.2.** Attorneys-in-fact who sign bid bonds or contract bonds must file a certified power-of-attorney with the State indicating the effective date of that power.

## **IB7. Performance and Payment Bond**

**IB7.1.** The successful bidder shall furnish within ten calendar days after notice of award both a performance bond in statutory form in an amount equal to 100 percent of the total contract price as security for the faithful performance of this contract and a payment bond in statutory form in amount equal to 100 percent of the contract price as security for the payment of all persons and firms performing labor and furnishing materials in connection with this contract. The performance bond and the payment bond may be combined or in separate instruments in accordance with law. No contract shall be executed unless and until each bond is submitted to and approved by the State. The surety must be presently authorized to do business in the State of New Jersey.

**IB7.2.** The cost of bonds shall be paid for by the contractor.

**IB7.3.** If at any time the State, for justifiable cause, is dissatisfied with any surety which has issued or proposes to issue a performance or payment bond, the contractor shall, within ten calendar days after notice from the State to do so, substitute an acceptance bond (or bonds). The substituted bond(s) shall be in such form and sum and executed by such other surety or sureties as may be satisfactory to the State. The premiums on such bond(s) shall be paid by the contractor. No contract shall be executed and/or no payment made under a contract until the new surety or sureties shall have furnished such an acceptable bond to the State.

**IB7.4.** Bonds must be legally effective as of the date the contract is signed. Each must indicate the contractor's name exactly as it appears on the contract. Current attorney-in-fact instruments and financial statement of the surety must be included with the bonds. Bonds must be executed by an authorized officer of the surety. Bonds furnished under this section shall conform in all respects to the requirement and language of NJSA 2A:44-143 to 147.

## **IB8. Bulletins and Interpretations**

**IB8.1.** No interpretation of the meaning of the plans, specifications or other pre-bid documents will be provided to any bidder unless such interpretation is made in writing to all prospective bidders prior to the opening of bids. Any such interpretations must be identified in bid proposals submitted. Any interpretations which are not entered in accordance with this provision shall be unauthorized and not binding upon the State.

**IB8.2.** Every request for an interpretation relating to clarification or correction of the plans, specifications, or other bid documents must be made in writing, addressed to the architect/engineer and the DBC Director, and must be received at least five working days prior to the date fixed for the opening of the bids. Any and all interpretations, clarifications or corrections and any supplemental instructions must be issued by the Director in the form of written bulletins and mailed by certified mail, return receipt requested, or by telegraphic notice to all prospective bidders not later than three working days prior to the date of the opening of bids. All bulletins issued shall become part of the contract documents and shall be acknowledged in all bid proposals. Failure of a bidder to acknowledge receipt of all such bulletins and interpretations by the time of bid opening shall result in its proposal being considered non-responsive, at the option of the Director.

**IB8.3.** Each bidder shall be responsible for thoroughly reviewing the contract documents prior to the submission of bids. Bidders are advised that no claim for expenses incurred or damages sustained on account of any error, discrepancy, omission, or conflict in the contract documents shall be recognized by the State unless, and only to the extent that, a written request for interpretation, clarification or correction has been submitted in compliance with Section IB8.2 and provided the matter has not been addressed by the State through the issuance of a bulletin interpreting, clarifying or correcting such error, discrepancy, omission or conflict.

## **IB9. Assignments**

**IB9.1.** The contractor shall not assign all or any part of this contract without written consent of the State. Money due (or to become due) the contractor hereunder shall not be assigned for any purposes whatsoever.

## **IB10. Federal Excise Taxes and State Sales Tax**

**IB10.1.** In general, bidders, in preparing bids, must take into consideration applicable Federal and State tax laws.

**IB10.2.** Under Chapter 32 of the Internal Revenue Code, an exemption certificate must be on file with the Director of the Division of Purchase and Property (Number 22-75-005).

**IB10.3.** Materials, supplies or services for exclusive use in erecting structures or buildings or otherwise improving, altering or repairing all State-owned property are exempt from the State sales tax.

**IB10.4.** Bidders must determine the current status and applicability of any tax laws, and the contractor may make no claim based upon any error or misunderstanding as to the applicability of any tax laws.

**IB10.5.** Purchases or rentals of equipment are not exempt from any tax under the State Sales Tax Act.

## **IB11. Restrictive Specifications**

**IB11.1.** Should any bidder determine before the bid due date that any portion of the specifications or drawings specify a particular product which can be provided by only one supplier



or manufacturer, with the result that competitive prices are not available, the bidder shall immediately notify the Director in writing of such fact.

**IB11.2.** If such notice is not given in a timely manner, it shall be assumed that the bidder has included the estimate of such sole source in the bid. However, if the Director is notified in a timely manner of the sole source of supply or manufacture, the Director may order the product re-bid or take other lawful action.

## **IB12. Offer of Gratuities**

**IB12.1.** Bidders are advised that the laws of New Jersey (NJSA 52:34-19) make it a misdemeanor to offer, pay or give any fee, commission, compensation, gift or gratuity to any person employed by the State. Also, Executive Order #189 (1988) requires that all requests for proposals and contracts issued by the State specify prohibitions on vendor (contractor) activities, the violation of which shall render the vendor liable to ineligibility for State contracts, pursuant to the debarment procedures set forth in NJAC 17:19-3.1 *et seq.* These prohibited activities include the following:

- a.** No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by NJSA 52:34D-13b. and e., in the Department of Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by NJSA 52:13D-13i., of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of NJSA 52:13D-13g.
- b.** The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
- c.** No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of NJSA 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

- d.** No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- e.** No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
- f.** The provisions cited above in paragraphs IB12.1.a. through e. shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph IB12.1.c. above.